

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Airport
AGENDA DATE: September 25, 2012
CONTACT PERSON: Monica Lombraña A.A.E., (915) 780-4793
DISTRICT(S) AFFECTED: All Districts

SUBJECT:

That the City Manager be authorized to sign a Lessors Approval of Sublease where the City of El Paso is "Lessor", Cutter Aviation is "Lessee", and IFL Group is "Sub-Lessee". IFL Group will sublease a portion of the property described as a portion of Lot 1, Block 1, Butterfield Trail Aviation Park, El Paso, El Paso County, Texas, municipally known and numbered as 253 George Perry, El Paso, Texas 79925 from Sublessee.

BACKGROUND / DISCUSSION:

A November 1, 2000 Fuel Site Lease with Cutter Aviation was approved by City Council, and was amended on March 28, 2006 to permit the subleasing of the premises. Cutter Aviation is now requesting approval of a sublease agreement with IFL Group, for approximately 250 Sq. Ft. of office space allowing IFL Group to provide logistical and maintenance services to IFL aircraft in the movement of freight. City Council approval is requested, as per the March 28, 2006 lease amendment, all subleases are subject to the consent of lessor.

PRIOR COUNCIL ACTION:

Council has approved prior Cutter Aviation subleases on:

- 06-01-2006 Border Aviation
- 06-06-2006 Volare Air Charter Company (Sublease Currently Expired)
- 06-06-2006 Med Flight Air Ambulance
- 09-19-2006 Franklyn Mountain Management
- 11-07-2007 Midwest Aviation
- 07-08-2008 Integrated Airline Service, Inc.
- 05-11-2010 Elite Medical Transport
- 06-22-2010 MacNaughtan Development (Sublease Currently Expired)
- 10-25-2011 TX Dept. of Public Safety

AMOUNT AND SOURCE OF FUNDING:

N.A. there is no City/Airport revenue or expense component with this approval

BOARD / COMMISSION ACTION: N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



Monica Lombraña A.A.E.
Director of Aviation

Information copy to appropriate Deputy City Manager

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Lessor's Approval of Sublease between the City of El Paso ("Lessor"), Cutter Aviation El Paso, Inc. ("Lessee"), and IFL Group ("Sublessee") regarding a portion of the premises located at 253 George Perry Blvd., El Paso, Texas.

APPROVED this _____ day of _____ 2012.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

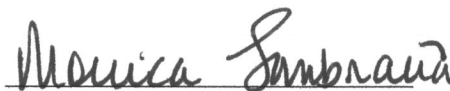
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:



Monica Lombraña, A.A.E.
Director of Aviation

STATE OF TEXAS §
 § LESSOR'S APPROVAL OF SUBLEASE
COUNTY OF EL PASO §

THIS Lessor's Approval of Sublease is made and entered into by and between the City of El Paso ("Lessor"), Cutter Aviation El Paso, Inc. ("Lessee"), and IFL Group ("Sublessee"), effective the ____ day of _____, 2012.

WHEREAS, Lessor and Lessee entered into a Fuel Site Lease with an effective date of November 1, 2000 as amended by that First Amendment dated March 28, 2006 (collectively referred to as the "Lease") covering the following described property:

A portion of Lot 1, Block 1, Butterfield Trail Aviation Park, Unit One, El Paso, El Paso County, Texas consisting of approximately 71,429 square feet of land, which is municipally known and numbered as 253 George Perry Blvd., El Paso, Texas (the "Premises");

WHEREAS, Lessee desires to sublease a portion of the Premises to Sublessee;

WHEREAS, Lease requires the prior written consent of the Lessor for a sublease of all or part of the Premises;

WHEREAS, the Director of Aviation is recommending that the sublease be approved pursuant to Section 1.04 (3) of the Lease, and

WHEREAS, Lessor is willing to approve the proposed sublease subject to the terms and conditions set forth in this Lessor's Approval of Sublease, and accepted and agreed to by Lessee and Sublessee;

NOW, THEREFORE, in consideration of the mutual covenants of the parties, Lessor, Lessee, and Sublessee agree as follows:

1. **Acceptance of Lease Terms and Covenants.** Sublessee acknowledges that it has been provided with a copy of the Lease and agrees to accept and abide by all the terms, covenants, and conditions of the Lease.
2. **Lease Terms Conflicting with State or Federal laws.** To the extent any clause in this Lessor's Approval of Sublease or the Lease conflicts with the applicable Texas and/or United States law(s) or regulation(s), such clause is void and unenforceable. By executing an agreement which contains the conflicting clause(s), Sublessee makes no representations or warranties regarding the enforceability of such clause(s) and Sublessee does not waive the applicable Texas and /or United States law(s) or regulations(s) which conflict with the clauses(s).

3. **Subleased Premises.** Sublessee acknowledges that the subleased premises located at 253 George Perry Blvd., El Paso, El Paso County, Texas are described as 250 square feet of office space.
4. **Permitted Use of Premises.** Sublessee acknowledges that the subleased premises will not be used for any activity other than for an office space. Sublessee also acknowledges that its use of the subleased premises shall be further limited by those restrictions and prohibitions enumerated within the Lease.
5. **Proof of Insurance.** Sublessee has provided Lessor with a certificate of insurance to evidence compliance with the insurance requirements of the Lease and understands and agrees that Lessor's consent to sublease is expressly contingent upon Sublessee maintaining the required levels of insurance and Sublessee's providing proof of such to Lessor. Failure to comply with any insurance requirements may result in a revocation of Lessor's consent to the sublease and termination of this Lessor's Approval of Sublease and the sublease.
6. **Reporting Requirements.** As additional consideration for Lessor's approval, Sublessee agrees that it shall furnish to Lessor, upon ten (10) days written request by the Director of Aviation and at no cost to Lessor, an accurate report of Sublessee's operations at EPIA during the preceding month. The report shall include, but not be limited to, any information related to the following: (i) the amount of cargo, freight, or mail loaded or off-loaded from any aircraft by Sublessee, its customers, contractors, or agents; and (ii) the type of aircraft and name of aircraft operator handled. Sublessee agrees to provide this information, if applicable, in such detail and on the form as prescribed by the Director of Aviation. Failure to comply with the reporting requirements may result in a revocation of the Lessor's consent to the sublease and termination of the Lessor's Approval of Sublease and the Sublease.
7. **Lessee's Obligations.** Notwithstanding any provision to the contrary in the Sublease, this Lessor's Approval of Sublease shall in no way release the Lessee or any person or entity claiming by, through, or under Lessee, including Sublessee, from any of its covenants, agreements, liabilities, and duties under the Lease, as same may be amended from time to time. Lessee shall remain liable to Lessor for any defaults under the Lease, whether such default is caused by Lessee or Sublessee or anyone claiming by or through either Lessee or Sublessee. The foregoing shall not be deemed to restrict or diminish any right which Lessor may have against Lessee or Sublessee, in law or in equity, for violation of the Lease.
8. **Purpose.** This Lessor's Approval of Sublease does not constitute approval by Lessor of any of the provisions of the Sublease document or agreement; nor shall the same be construed to amend the Lease in any respect. The sole purpose of the Sublease shall be to set forth the rights and obligations between Lessee and Sublessee. In no event, however, shall Lessor be deemed to be in privity of contract with Sublessee or owe any obligation or duty to Sublessee under the

Lease or otherwise; any duties of Lessor under the Lease being in favor of, for the benefit of, and enforceable solely by Lessee.

9. **Non-Waiver.** Nothing herein shall be deemed a waiver of any of Lessor's rights under the Lease. This Lessor's Approval of Sublease does not end the need for Lessor's approval of any future subleases or for any other matter for which Lessor's approval is required under the Lease or otherwise.
10. **Subordinate Rights.** The Sublease is, in all aspects, subject and subordinated to the Lease as the same may be amended. The terms of the Lease shall prevail in the case of any conflict between the provisions of the Lease, Sublease, or this Lessor's Approval of Sublease.

If, at any time prior to the expiration of the term of the Sublease, the Lease shall terminate or be terminated for any reason (or Lessee's right to possession shall terminate without termination of the Lease), this Lessor's Approval of Sublease and the Sublease shall simultaneously terminate.

11. **Authorized Parties.** The persons signing this Lessor's Approval of Sublease on behalf of the Lessee and Sublessee represent and warrant that they have the authority to legally bind the Lessee and Sublessee to the provisions of this instrument. Further, Lessee and Sublessee acknowledge and agree to be bound by all the terms and conditions of this Lessor's Approval of Sublease as set forth herein.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, this Lessor's Approval of Sublease has been executed and shall be effective as of the date first noted above.

CITY OF EL PASO, TEXAS

Joyce A. Wilson
City Manager

APPROVED AS TO FORM:



Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:



Monica Lombrana, A.A.E.
Director of Aviation

ACKNOWLEDGMENT
LESSOR

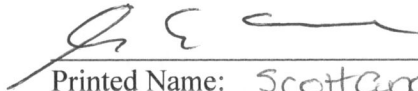
THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me this _____ day of _____ 2012,
by **Joyce A. Wilson**, as **City Manager** of the **City of El Paso**.

Notary Public, State of Texas

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]


LESSEE: CUTTER AVIATION
EL PASO, INC.


Printed Name: Scott Andre
Title: G.M.

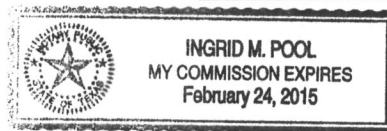
ACKNOWLEDGMENT
LESSEE

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 12th day of September, 2012,
by Scott Andre as G.M. of Cutter Aviation El Paso, Inc.
(Lessee).


Notary Public, State of TEXAS

My Commission Expires:
February 24, 2015



[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

SUBLESSEE: IFL GROUP

Stacey
Printed Name: Stacey Lindsay
Title: Aircraft Mechanic

ACKNOWLEDGMENT
SUBLESSEE

THE STATE OF TEXAS)
 EL PASO)
COUNTY OF ~~TRAVIS~~)

This instrument was acknowledged before me on this 12th day of September 2012,
by Stacey Lindsay as Aircraft Mechanic of IFL Group (Sublessee).

Ingrid M. Pool
Notary Public, State of TEXAS

My Commission Expires:
February 24, 2015

